

Remarks

Reconsideration of this application is respectfully requested.

Applicant has canceled claim 73 and amended claims 66 and 74. Upon entry of the foregoing amendment, claims 66-72 and 74-81 are pending in the application, with claim 66 being the sole independent claim. Claim 66 is sought to be amended to more clearly define the claimed subject matter. Claim 74 is sought to be amended for proper claim dependency. No new matter is added by way of these amendments. It is respectfully requested that the amendments be entered and considered.

I. Allowable Subject Matter

Applicants note and appreciate the Examiner's allowance of claims 69-70 and 72-81 if they were to be rewritten in independent form.

II. Claim Rejections Under 35 U.S.C. § 102(b)

Claims 66-68 and 71 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Hoover *et al.* US 4,979,639. (Office Action, page 2.)

An anticipation rejection under 35 U.S.C. § 102 requires a showing that each limitation of a claim is found in a single reference, practice, or device. (*See In re Donohue*, 766 F.2d 531, (Fed. Cir. 1985).)

Original claims 66-68 and 71 and claims 66-68 and 71 as amended herein are not anticipated by Hoover *et al.* Claim 66 recites, *inter alia*, a:

computer readable program code means for enabling the computer system to control a flow of a diluent into a static mixing chamber, wherein said static mixing chamber provides a turbulent diluent stream in accordance with said flow;

computer readable program code means for enabling the computer system to control a flow of a plurality of chemically incompatible concentrate solutions into said static mixing chamber, wherein said plurality of concentrate solutions admix with said turbulent diluent stream

(Underlining added.) Hoover *et al.* does not describe a static mixing chamber or a turbulent diluent stream. Therefore, Hoover *et al.* does not anticipate the subject matter of claims 66-68 and 71.

Additionally, the Examiner asserts that “the concentrated solutions used in the device of Hoover do not adversely react with one another.” (Emphasis added; Office Action, page 6.) Hoover *et al.* does not disclose adding a plurality of concentrates to the diluent, but discloses adding only one concentrate (beverage syrup) to a diluent (water or carbonated water). (See Hoover *et al.*, column 4, lines 2-7 and lines 15-25.) One skilled in the art will recognize the differences between a computer system to control adding a plurality of chemically incompatible concentrate solutions to a diluent versus a computer system to control a flow of one concentrate solution into a diluent. Therefore, Hoover *et al.* does not anticipate the subject matter of claims 66-68 and 71 which refer to a computer readable program code means for enabling the computer system to control a flow of a plurality of chemically incompatible concentrate solutions.

Applicants believe the Examiner has mischaracterized the term “chemically incompatible concentrate solutions.” The Examiner states:

paragraph [0057] discloses, “none of the ingredients of concentrate solutions 115 adversely chemically react with one another.” The

examiner assumes this is what applicant means by “incompatible”. As such the examiner asserts the concentrated solutions used in the device of Hoover do not adversely react with one another, hence the solutions are considered incompatible.

(Office Action, page 6.) The term “chemically incompatible concentrate solutions” refers to two concentrate solutions that when in contact with each other may produce an adverse chemical reaction. (*See* paragraphs 14 and 76 of the present specification.) One of the features of Applicants’ claimed invention is the ability to introduce a plurality of “chemically incompatible concentrate solutions” into a diluent without the concentrate solutions reacting adversely with each other or the diluent. (*See* paragraph 76 of the present specification.)

However, solely to advance prosecution, and not in acquiescence to the Examiner’s rejection, Applicants have amended claim 66 to refer to a “computer readable program code means for enabling the computer system to monitor a pH level of said diluted mixture using at least one pH sensor located downstream of said static mixing chamber.” This amendment incorporates the subject matter of previously presented claim 73 which depended from claim 66. Applicants note that claim 73 was not rejected under 35 U.S.C. § 102(b) by the Examiner and Hoover *et al.* does not teach the presently claimed combination that is the subject matter of the claims as presented herein.

In view of the above, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of the claims under 35 U.S.C. § 102(b).

Conclusion

It is not believed that extensions of time are required beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefore are hereby authorized to be charged to the Deposit Account No. 19-0036.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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Date: APR. 07, 2006

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